

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FEDERATED RURAL ELECTRIC
INSURANCE EXCHANGE and TIG
INSURANCE COMPANY,

Plaintiffs,

v.

PUBLIC UTILITY DISTRICT NO. 1 of
COWLITZ COUNTY, WASHINGTON, a
Washington municipal corporation,

Defendants.

Case No. C04-5052 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Plaintiffs' Motion to Compel Production and to Complete Response to Interrogatories [Dkt. #97] and Motion to Extend Trial Date, Dispositive Motion Date and Pretrial Deadlines [Dkt. #102].

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

On April 21, 2002 the embankment of Public Utility District No. 1 of Cowlitz County Washington's (PUD) Swift No. 2 Power Canal failed. Nearly 800 million gallons of water drained into the Yale Reservoir, causing significant damage to the powerhouse, State Highway 503, and the adjacent switchyard. The PUD's insurers, Federated Rural Electric Insurance Exchange (Federated) and TIG Insurance Company (TIG) (collectively "the Insurers") filed an action on February 3, 2004 seeking a declaratory judgment that the Insurers are not liable for the PUD's losses.

The Insurers have moved to compel the production of "any and all agreement(s) with Lloyd's of

1 London, or any other property insurer, along with all documents relating to such agreement(s).”¹ The Court
 2 has reviewed *in camera* an agreement between Lloyd’s and the District dated April 13, 2004 (signed by
 3 Lloyd’s on April 19, 2004) which sets forth the District’s and Lloyd’s agreement with regard the Declaratory
 4 Judgment litigation. The document contains information which is either relevant, or is “reasonably calculated
 5 to lead to the discovery of admissible evidence,” Fed.R.Civ.P. 26 (b)(1), and is therefore discoverable. The
 6 District shall provide the plaintiffs with the April 13, 2004 agreement and any other agreements between the
 7 District, Lloyd’s, and other insurers within ten (10) days of entry of this Order.

8 The Insurers have also moved to compel the District to more fully answer Interrogatories.² The
 9 Interrogatories request information about the District’s previous losses and about the FERC’s request for
 10 5-year inspections. The Insurers object to the District’s responses because the District prefaced their response
 11 with the phrase “Documents including but not limited to” and then cited to specific documents in the record.
 12 The Court finds that the District’s answers comply with the requirement of Fed.R.Civ.P. 33, and therefore
 13 denies the Plaintiffs’ motion for more complete answers.

14 The Insurers have also moved to continue the trial and related dates because of the volume of the
 15 ongoing discovery and because the rebuilding of the power canal will not be complete by the previously
 16 scheduled trial date of January 3, 2006. Given the status of the lawsuit now, and the fact that the rebuilding
 17 is not yet completed, the Court finds that the request for continuance is reasonable. Therefore, the motion to
 18 continue is GRANTED and the new dates are as follows:

19	TRIAL set for 9:30 a.m. on	September 6, 2006
20	Disclosure of expert testimony under FRCP 26(a)(2)	March 10, 2006
21	All motions related to discovery must be FILED by	April 19, 2006
22	Discovery COMPLETED by	May 9, 2006
23	All dispositive motions must be FILED by	June 8, 2006
24	Settlement conference per CR 39.1(c)(2) HELD no later than	July 8, 2006
25	Mediation per CR 39.1(c)(3) HELD no later than	August 7, 2006

27
 28 ¹Plaintiffs’ Motion, Dkt. #97, page 1. The information was sought by way of Requests for Production Nos. 1, 3, and 4.

²The Interrogatories at issue are plaintiffs’ First Set of Interrogatories Nos. 9-12, and 15.

1 Letter of compliance as to CR 39.1 FILED by August 14, 2006

2 A roster of Local Rule 39.1 mediators can be located on the
3 Internet at www.wawd.uscourts.gov. If you do not have
4 access to the Internet, please contact the Clerk's Office at
5 253-593-6581.

6 Motions in limine should be FILED by August 9, 2006

7 and NOTED on the motion calendar no later than the
8 second Friday thereafter.

9 Agreed pretrial order and Exhibit & Witness Lists LODGED with August 18, 2006
10 the court by

11 Pretrial conference will be HELD at 8:30 a.m. on August 25, 2006

12 (COUNSEL SHALL REPORT TO COURTROOM B)

13 Trial briefs, proposed voir dire & jury instructions due ** August 23, 2006

14 **JURY INSTRUCTIONS See Local Civil Rule CR 51. A Manual of Model Civil Jury Instructions
15 for the Ninth Circuit - Latest Edition should be used as the format for proposed jury instructions. See
16 www.wawd.uscourts.gov

17 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW need not be submitted unless
18 specifically requested by the Judge.

19 If any of the dates identified in this Order or the Local Civil Rules fall on a weekend or federal holiday,
20 the act or event shall be performed on the next business day. These are firm dates that can be changed only
21 by order of the Court.

22 If this case is settled, please advise Jean Boring, Courtroom Deputy to Judge Leighton immediately
23 at (253) 593-6581. If this case is not settled, it will go to trial on the date set or as soon thereafter as the court
24 is available.

1 Plaintiffs' Motion to Compel Production and to Complete Responses to Interrogatories [Dkt. #97] is
2 GRANTED insofar as it requests the District to turn over agreements between the District and Lloyd's, or
3 other insurers; it is DENIED insofar as it requests more complete answers to Interrogatories. Plaintiffs'
4 Motion to Extend Trial Date, Dispositive Motion Date and Pretrial Deadlines [Dkt. #102] is GRANTED.

5 IT IS SO ORDERED.

6 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
7 pro se.

8 Dated this 13th day of September, 2005.

9
10 
11 RONALD B. LEIGHTON
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28